

## **REMARKS**

### **1. Present Status of Patent Application**

This is a full and timely response to the outstanding Office Action mailed March 1, 2005. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

### **2. Examiner Interview**

Applicant first wishes to express his sincere appreciation for the time that Examiner Edelman spent with Applicant's Attorney, Charles Griggers, during a telephone discussion on March 28, 2005 regarding the outstanding Office Action. During the discussion, potential claim amendments were discussed, and the Examiner seemed to indicate that it would be potentially beneficial for Applicant to make the amendments herein. Thus, Applicant respectfully requests that the Examiner carefully consider this response and the amendments.

### **3. Response to Rejection of Claims 20-25 under 35 U.S.C. § 112, Second Paragraph**

Claims 20-25 has been rejected under 35 U.S.C. § 112, Second Paragraph, as purportedly "being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." In response, independent claim 20 has been amended to correct the antecedent basis issue cited in the Office Action. In that the rejections are believed to have been overcome, Applicant respectfully requests that the rejections of these claims be withdrawn.

### **4. Response To Rejections of Claims 1-30 and 33-37 Under 35 U.S.C. § 102(e)**

In the Office Action, claims 1-30 and 33-37 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by *Mousseau* (U.S. Patent No. 6,438,585). For a proper rejection of a claim under 35 U.S.C. Section 102, the cited reference must disclose all elements/features/steps of the claim. See, e.g., *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

a. Claim 1

A method for processing data in a wireless communication network, comprising:

receiving at least one electronic message having at least one attachment associated therewith, *wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network;*

*associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment;* and

*determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network.*

(Emphasis added).

Applicant respectfully submits that independent claim 1 is allowable for at least the reason that *Mousseau* does not disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” “associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment,” and “determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 1.

Rather, *Mousseau* discloses a system for delivering and receiving a message with attachment(s) at a network address of a host system and then resending or redirecting an attachment to a mobile device based solely upon attachment type. *See, e.g.*, Col. 8, lines 19-27. (“Also programmed into the redirector 11 is the address of the user’s mobile data communication device 24, the type of the device, and whether the device 24 can accept certain types of attachments, such as word processing or voice attachments. If the user’s type of mobile device

cannot accept these types of attachments, the redirector 12 can be programmed to route the attachments to a fax or voice number where the user is located.” Emphasis added.) Therefore, *Mousseau* fails to disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network” associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment” and “determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 1. (Emphasis added). For at least these reasons alone, *Mousseau* does not anticipate claim 1. Therefore, the rejection of claim 1 should be withdrawn.

b. Claims 2-19

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-19 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 2-19 contain all the features of independent claim 1. Additionally and notwithstanding the foregoing reasons for allowability of claims 2-19, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

c. Claim 20

A system for processing data in a wireless communication network, comprising:

means for receiving at least one electronic message having at least one attachment associated therewith, *wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network;*

*means for associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment; and*

***means for determining whether to transmit each attachment, in a push operation, to a recipient of said message at the network address based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network.***

(Emphasis added).

Applicant respectfully submits that independent claim 20 is allowable for at least the reason that *Mousseau* does not disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” “means for associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment,” and “means for determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 20.

Rather, *Mousseau* discloses a system for delivering and receiving a message with attachment(s) at a network address of a host system and then resending or redirecting an attachment to a mobile device based solely upon attachment type. *See, e.g.*, Col. 8, lines 19-27. (“Also programmed into the redirector 11 is the address of the user’s mobile data communication device 24, the type of the device, and whether the device 24 can accept certain types of attachments, such as word processing or voice attachments. If the user’s type of mobile device cannot accept these types of attachments, the redirector 12 can be programmed to route the attachments to a fax or voice number where the user is located.” Emphasis added.) Therefore, *Mousseau* fails to disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” “means for associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment,” and “means for determining whether to transmit each attachment, in a push

operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 20. (Emphasis added). For at least these reasons alone, *Mousseau* does not anticipate claim 20. Therefore, the rejection of claim 20 should be withdrawn.

d. Claims 21-22

Because independent claim 20 is allowable over the cited art of record, dependent claims 21-22 (which depend from independent claim 20) are allowable as a matter of law for at least the reason that the dependent claims 21-22 contain all the features of independent claim 20. Additionally and notwithstanding the foregoing reasons for allowability of claims 21-22, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

e. Claim 23

A computer-readable medium containing instructions for controlling a computer system to perform a method in a wireless communication environment, said method comprising:

receiving at least one electronic message having at least one attachment associated therewith, *wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network;*

*associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment;* and

*determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network.*

(Emphasis added).

Applicant respectfully submits that independent claim 23 is allowable for at least the reason that *Mousseau* does not disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying

transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” “associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment,” and “determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 23.

Rather, *Mousseau* discloses a system for delivering and receiving a message with attachment(s) at a network address of a host system and then resending or redirecting an attachment to a mobile device based solely upon attachment type. *See, e.g.*, Col. 8, lines 19-27. (“Also programmed into the redirector 11 is the address of the user’s mobile data communication device 24, the type of the device, and whether the device 24 can accept certain types of attachments, such as word processing or voice attachments. If the user’s type of mobile device cannot accept these types of attachments, the redirector 12 can be programmed to route the attachments to a fax or voice number where the user is located.” Emphasis added.) Therefore, *Mousseau* fails to disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” “associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment,” and “determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 23. (Emphasis added). For at least these reasons alone, *Mousseau* does not anticipate claim 23. Therefore, the rejection of claim 23 should be withdrawn.

f. Claims 24-25

Because independent claim 23 is allowable over the cited art of record, dependent claims 24-25 (which depend from independent claim 23) are allowable as a matter of law for at least the

reason that the dependent claims 24-25 contain all the features of independent claim 23. Additionally and notwithstanding the foregoing reasons for allowability of claims 24-25, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

g. Claim 26

A system for processing an electronic message having at least one attachment associated therewith in a wireless communication network, said system comprising:

a gateway structured with an internal network to receive electronic messages from at least one source, *wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network;*

*said gateway structured to identify each attachment of said electronic message with an indicia tag representative of attachment type and at least one additional characteristic of said attachment; and*

*said gateway structured to transmit, in a push operation, at least a portion of each of said electronic messages to a recipient of said message in recognition of limited available bandwidth in the wireless communication network and in accordance with said indicia tag, wherein said transmitted portion includes at least clear text.*

(Emphasis added).

Applicant respectfully submits that independent claim 26 is allowable for at least the reason that *Mousseau* does not disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” “identify[ing] each attachment of said electronic message with an indicia tag representative of attachment type and at least one additional characteristic of said attachment,” and “transmit[ing], in a push operation, at least a portion of each of said electronic messages to a recipient . . . in recognition of limited available bandwidth in the wireless communication network and in accordance with said indicia tag,” as recited in claim 26.

Rather, *Mousseau* discloses a system for delivering and receiving a message with attachment(s) at a network address of a host system and then resending or redirecting an attachment to a mobile device based solely upon attachment type. *See, e.g.*, Col. 8, lines 19-27. (“Also programmed into the redirector 11 is the address of the user’s mobile data communication device 24, the type of the device, and whether the device 24 can accept certain types of attachments, such as word processing or voice attachments. If the user’s type of mobile device cannot accept these types of attachments, the redirector 12 can be programmed to route the attachments to a fax or voice number where the user is located.” Emphasis added.) Therefore, *Mousseau* fails to disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” “identify[ing] each attachment of said electronic message with an indicia tag representative of attachment type and at least one additional characteristic of said attachment,” and “transmit[ing], in a push operation, at least a portion of each of said electronic messages to a recipient . . . in recognition of limited available bandwidth in the wireless communication network and in accordance with said indicia tag,” as recited in claim 26. (Emphasis added). For at least these reasons alone, *Mousseau* does not anticipate claim 26. Therefore, the rejection of claim 26 should be withdrawn.

h. Claims 27-30 and 33-37

Because independent claim 26 is allowable over the cited art of record, dependent claims 27-30 and 33-37 (which depend from independent claim 26) are allowable as a matter of law for at least the reason that the dependent claims 27-30 and 33-37 contain all the features of independent claim 26. Additionally and notwithstanding the foregoing reasons for allowability of claims 27-30 and 33-37, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

5. Response To Rejections of Claims 1-31 and 33-37 Under 35 U.S.C. § 103(a)

In the Office Action, claims 1-31 and 33-37 stand rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over *Foladare* (U.S. Patent No. 6,311,210) in view of *Mousseau*. For a proper rejection of a claim under 35 U.S.C. § 103, the teachings of the cited art references must suggest all features of the claimed subject matter to one of ordinary skill in the art. *See, e.g., In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

a. Claim 1

A method for processing data in a wireless communication network, comprising:

receiving at least one electronic message having at least one attachment associated therewith, ***wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of the limited available bandwidth in the wireless communication network;***

***associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment;*** and

***determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network.***

(Emphasis added).

Applicant respectfully submits that independent claim 1 is allowable for at least the reason that *Foladare* in view of *Mousseau* does not disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of the limited available bandwidth in the wireless communication network,” associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment,” and “determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective

attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 1.

Rather, *Foladare* discloses a system for redirecting a message with attachment(s) to a mobile device based solely upon attachment type. *See, e.g.*, Col. 6, lines 18-40. (“The determination of which type of attachments to send may be based on file extensions such as .doc, .txt, .exe, .bmp, and the like.” Further, *Foladare* discloses that “it may not be desirable to have [attachments] sent to all of the receiving party’s electronic mail receiving devices 120-150. For example, an alpha pager is not capable of displaying a bitmap file or executing programs.” Col. 6, lines 27-30. Therefore, *Foladare* fails to disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of the limited available bandwidth in the wireless communication network,” “associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment,” and “determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 1. (Emphasis added). As previously discussed, *Mousseau* is also legally inadequate to cure the deficiencies of the *Foladare* reference. For at least these reasons alone, *Foladare* in view of *Mousseau* does not disclose, teach, or suggest claim 1, and the rejection of claim 1 should be withdrawn.

b. Claims 2-19

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-19 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 2-19 contain all the features of independent claim 1. Additionally and notwithstanding the foregoing reasons for allowability of claims 2-19, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

c. Claim 20

A system for processing data in a wireless communication network, comprising:

means for receiving at least one electronic message having at least one attachment associated therewith, *wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network;*

*means for associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment; and*

*means for determining whether to transmit each attachment, in a push operation, to a recipient of said message at the network address based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network.*

(Emphasis added).

Applicant respectfully submits that independent claim 20 is allowable for at least the reason that *Foladare* in view of *Mousseau* does not disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” “means for associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment,” and “means for determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 20.

Rather, *Foladare* discloses a system for redirecting a message with attachment(s) to a mobile device based solely upon attachment type. *See, e.g.*, Col. 6, lines 18-40. (“The determination of which type of attachments to send may be based on file extensions such as .doc, .txt, .exe, .bmp, and the like.” Further, *Foladare* discloses that “it may not be desirable to have [attachments] sent to all of the receiving party’s electronic mail receiving devices 120-150. For example, an alpha pager is not capable of displaying a bitmap file or executing programs.” Col.

6, lines 27-30. Therefore, *Foladare* fails to disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” “means for associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment,” and “means for determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 20. (Emphasis added). As previously discussed, *Mousseau* is also legally inadequate to cure the deficiencies of the *Foladare* reference. For at least these reasons alone, *Foladare* in view of *Mousseau* does not disclose, teach, or suggest claim 20, and the rejection of claim 20 should be withdrawn.

d. Claims 21-22

Because independent claim 20 is allowable over the cited art of record, dependent claims 21-22 (which depend from independent claim 20) are allowable as a matter of law for at least the reason that the dependent claims 21-22 contain all the features of independent claim 20. Additionally and notwithstanding the foregoing reasons for allowability of claims 21-22, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

e. Claim 23

A computer-readable medium containing instructions for controlling a computer system to perform a method in a wireless communication environment, said method comprising:

receiving at least one electronic message having at least one attachment associated therewith, *wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network;*

*associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment; and*

*determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network.*

(Emphasis added).

Applicant respectfully submits that independent claim 23 is allowable for at least the reason that *Foladare* in view of *Mousseau* does not disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment,” and “determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 23.

Rather, *Foladare* discloses a system for redirecting a message with attachment(s) to a mobile device based solely upon attachment type. *See, e.g.*, Col. 6, lines 18-40. (“The determination of which type of attachments to send may be based on file extensions such as .doc, .txt, .exe, .bmp, and the like.” Further, *Foladare* discloses that “it may not be desirable to have [attachments] sent to all of the receiving party’s electronic mail receiving devices 120-150. For example, an alpha pager is not capable of displaying a bitmap file or executing programs.” Col. 6, lines 27-30. Therefore, *Foladare* fails to disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” “associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment,” and “determining whether to transmit each attachment, in a

push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 23. (Emphasis added). As previously discussed, *Mousseau* is also legally inadequate to cure the deficiencies of the *Foladare* reference. For at least these reasons alone, *Foladare* in view of *Mousseau* does not disclose, teach, or suggest claim 23, and the rejection of claim 23 should be withdrawn.

f. Claims 24-25

Because independent claim 23 is allowable over the cited art of record, dependent claims 24-25 (which depend from independent claim 23) are allowable as a matter of law for at least the reason that the dependent claims 24-25 contain all the features of independent claim 23. Additionally and notwithstanding the foregoing reasons for allowability of claims 24-25, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

g. Claim 26

A system for processing an electronic message having at least one attachment associated therewith in a wireless communication network, said system comprising:

a gateway structured with an internal network to receive electronic messages from at least one source, *wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network;*

*said gateway structured to identify each attachment of said electronic message with an indicia tag representative of attachment type and at least one additional characteristic of said attachment; and*

*said gateway structured to transmit, in a push operation, at least a portion of each of said electronic messages to a recipient of said message in recognition of limited available bandwidth in the wireless communication network and in accordance with said indicia tag, wherein said transmitted portion includes at least clear text.*

(Emphasis added).

Applicant respectfully submits that independent claim 26 is allowable for at least the reason that *Foladare* in view of *Mousseau* does not disclose, teach, or suggest at least the

features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” “identify[ing] each attachment of said electronic message with an indicia tag representative of attachment type and at least one additional characteristic of said attachment,” and “transmit[ing], in a push operation, at least a portion of each of said electronic messages to a recipient . . . in recognition of limited available bandwidth in the wireless communication network and in accordance with said indicia tag,” as recited in claim 26.

Rather, *Foladare* discloses a system for redirecting a message with attachment(s) to a mobile device based solely upon attachment type. *See, e.g.*, Col. 6, lines 18-40. (“The determination of which type of attachments to send may be based on file extensions such as .doc, .txt, .exe, .bmp, and the like.” Further, *Foladare* discloses that “it may not be desirable to have [attachments] sent to all of the receiving party’s electronic mail receiving devices 120-150. For example, an alpha pager is not capable of displaying a bitmap file or executing programs.” Col. 6, lines 27-30. Therefore, *Foladare* fails to disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” “identify[ing] each attachment of said electronic message with an indicia tag representative of attachment type and at least one additional characteristic of said attachment” and “transmit[ing], in a push operation, at least a portion of each of said electronic messages to a recipient . . . in recognition of limited available bandwidth in the wireless communication network and in accordance with said indicia tag,” as recited in claim 26. (Emphasis added). As previously discussed, *Mousseau* is also legally inadequate to cure the deficiencies of the *Foladare* reference. For at least these reasons alone, *Foladare* in view of *Mousseau* does not disclose, teach, or suggest claim 26, and the rejection of claim 26 should be withdrawn.

h. Claims 27-31 and 33-37

Because independent claim 26 is allowable over the cited art of record, dependent claims 27-31 and 33-37 (which depend from independent claim 26) are allowable as a matter of law for at least the reason that the dependent claims 27-31 and 33-37 contain all the features of independent claim 26. Additionally and notwithstanding the foregoing reasons for allowability of claims 27-31 and 33-37, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

6. Response To Rejections of Claims 1-11, 13-15, 20-34, 36, and 37 Under 35 U.S.C. § 103(a)

In the Office Action, claims 1-11, 13-15, 20-34, 36, and 37 stand rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over *Beyda* (U.S. Patent No. 6,275,850) in view of *Foladare*. For a proper rejection of a claim under 35 U.S.C. § 103, the teachings of the cited art references must suggest all features of the claimed subject matter to one of ordinary skill in the art. *See, e.g., In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

a. Claim 1

A method for processing data in a wireless communication network, comprising:

receiving at least one electronic message having at least one attachment associated therewith, ***wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network;***

associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment; and

***determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network.***

(Emphasis added).

Applicant respectfully submits that independent claim 1 is allowable for at least the reason that *Beyda* in view of *Foladare* does not disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network” and “determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 1.

Rather, *Beyda* discloses a system for delivering and receiving a message whereby the receiving party initiates the downloading of messages including attachments from a router/server 12. *See, e.g.*, col. 5, lines 23-36. “Preferably, the attachment filter 42 allows the receiving party to input the requirement that must be satisfied in order for attached files to be automatically downloaded.” Col. 5, lines 10-14 (Emphasis added). Therefore, *Beyda* fails to disclose, teach, or suggest at least the feature of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” and determining whether to transmit an attachment in a push operation to a recipient “in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 1. (Emphasis added). As previously discussed, *Foladare* is also legally inadequate to cure the deficiencies of the *Beyda* reference. For at least these reasons alone, *Beyda* in view of *Foladare* does not disclose, teach, or suggest claim 1. Therefore, the rejection of claim 1 should be withdrawn.

b. Claims 2-11 and 13-15

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-11 and 13-15 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 2-11 and 13-15 contain all the features of independent claim 1. Additionally and notwithstanding the foregoing reasons for allowability of claims 2-11

and 13-15, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

c. Claim 20

A system for processing data in a wireless communication network, comprising:

means for receiving at least one electronic message having at least one attachment associated therewith, *wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network;*

means for associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment; and

*means for determining whether to transmit each attachment, in a push operation, to a recipient of said message at the network address based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network.*

(Emphasis added).

Applicant respectfully submits that independent claim 20 is allowable for at least the reason that *Beyda* in view of *Foladare* does not disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network” and “means for determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 20.

Rather, *Beyda* discloses a system for delivering and receiving a message whereby the receiving party initiates the downloading of messages including attachments from a router/server 12. See, e.g., col. 5, lines 23-36. “Preferably, the attachment filter 42 allows the receiving party to input the requirement that must be satisfied in order for attached files to be automatically downloaded.” Col. 5, lines 10-14 (Emphasis added). Therefore, *Beyda* fails to disclose, teach, or

suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network,” and determining whether to transmit an attachment in a push operation to a recipient “in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 20. (Emphasis added). As previously discussed, *Foladare* is also legally inadequate to cure the deficiencies of the *Beyda* reference. For at least these reasons alone, *Beyda* in view of *Foladare* does not disclose, teach, or suggest claim 20. Therefore, the rejection of claim 20 should be withdrawn.

d. Claims 21-22

Because independent claim 20 is allowable over the cited art of record, dependent claims 21-22 (which depend from independent claim 20) are allowable as a matter of law for at least the reason that the dependent claims 21-22 contain all the features of independent claim 20. Additionally and notwithstanding the foregoing reasons for allowability of claims 21-22, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

e. Claim 23

A computer-readable medium containing instructions for controlling a computer system to perform a method in a wireless communication environment, said method comprising:

receiving at least one electronic message having at least one attachment associated therewith, *wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network;*

associating identifying indicia with each attachment in accordance with attachment file type and at least one additional-characteristic of said attachment; and

*determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective*

***attachment in recognition of limited available bandwidth in the wireless communication network.***

(Emphasis added).

Applicant respectfully submits that independent claim 23 is allowable for at least the reason that *Beyda* in view of *Foladare* does not disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network” and “determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 23.

Rather, *Beyda* discloses a system for delivering and receiving a message whereby the receiving party initiates the downloading of messages including attachments from a router/server 12. *See, e.g.*, col. 5, lines 23-36. “Preferably, the attachment filter 42 allows the receiving party to input the requirement that must be satisfied in order for attached files to be automatically downloaded.” Col. 5, lines 10-14 (Emphasis added). Therefore, *Beyda* fails to disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network” and determining whether to transmit an attachment in a push operation to a recipient “in recognition of limited available bandwidth in the wireless communication network,” as recited in claim 23. (Emphasis added). As previously discussed, *Foladare* is also legally inadequate to cure the deficiencies of the *Beyda* reference. For at least these reasons alone, *Beyda* in view of *Foladare* does not disclose, teach, or suggest claim 23. Therefore, the rejection of claim 23 should be withdrawn.

f. Claims 24-25

Because independent claim 23 is allowable over the cited art of record, dependent claims 24-25 (which depend from independent claim 23) are allowable as a matter of law for at least the reason that the dependent claims 24-25 contain all the features of independent claim 23. Additionally and notwithstanding the foregoing reasons for allowability of claims 24-25, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

g. Claim 26

A system for processing an electronic message having at least one attachment associated therewith in a wireless communication network, said system comprising:

a gateway structured with an internal network to receive electronic messages from at least one source, *wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network;*

said gateway structured to identify each attachment of said electronic message with an indicia tag representative of attachment type and at least one additional characteristic of said attachment; and

*said gateway structured to transmit, in a push operation, at least a portion of each of said electronic messages to a recipient of said message in recognition of limited available bandwidth in the wireless communication network and in accordance with said indicia tag, wherein said transmitted portion includes at least clear text.*

(Emphasis added).

Applicant respectfully submits that independent claim 26 is allowable for at least the reason that *Beyda* does not disclose, teach, or suggest anywhere in the specification or in the figures at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network” and “said gateway structured to transmit, in a push operation, at least a portion of said electronic messages to a recipient of said message at a network address specified in the electronic message in

recognition of limited available bandwidth in the wireless communication network and in accordance with said indicia tag, wherein said transmitted portion includes at least clear text,” as recited in claim 26.

Rather, *Beyda* discloses a system for delivering and receiving a message whereby the receiving party initiates the downloading of messages including attachments from a router/server 12. See, e.g., col. 5, lines 23-36. “Preferably, the attachment filter 42 allows the receiving party to input the requirement that must be satisfied in order for attached files to be automatically downloaded.” Col. 5, lines 10-14. (Emphasis added). Therefore, *Beyda* fails to disclose, teach, or suggest at least the features of “delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network” and transmitting a portion of a message in a push operation “in recognition of limited available bandwidth in the wireless communication network and in accordance with said indicia tag,” as recited in claim 26. (Emphasis added). As previously discussed, *Foladare* is also legally inadequate to cure the deficiencies of the *Beyda* reference. For at least these reasons alone, *Beyda* in view of *Foladare* does not disclose, teach, or suggest claim 26. Therefore, the rejection of claim 26 should be withdrawn.

h. Claims 27-34, 36, and 37

Because independent claim 26 is allowable over the cited art of record, dependent claims 27-34, 36, and 37 (which depend from independent claim 26) are allowable as a matter of law for at least the reason that the dependent claims 27-34, 36, and 37 contain all the features of independent claim 26. Additionally and notwithstanding the foregoing reasons for allowability of claims 27-34, 36, and 37, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

7. Response to Rejection of Claims 31 and 32 under 35 U.S.C. § 103(a)

In the Office Action, claims 31 and 32 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Mousseau*. For a proper rejection of a claim under 35 U.S.C. §

103, the teachings of the cited art reference must suggest all features of the claimed subject matter to one of ordinary skill in the art. *See, e.g., In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981). Because independent claim 26 is allowable over the cited art of record, dependent claims 31-32 (which depend from independent claim 26) are allowable as a matter of law for at least the reason that the dependent claims 31-32 contain all the features of independent claim 26.

### **CONCLUSION**

Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-37 are in condition for allowance. In addition, Applicant does not intend to admit anything regarding any other statements in the Office Action that is not explicitly referenced in this response. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,

  
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